

REMARKS

Claims 1-30 are pending in the present application. Claims 1, 3, 5, 12, and 19 are independent claims.

The Examiner has objected to claims 9-11 and 23-30 as being dependent upon a rejected base claim. At this time the Applicant declines the suggestion of rewriting these claims in independent form but reserves the right to do so at a future time.

The 35 U.S.C. § 103 Rejection

Claims 1-8 and 12-22 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Zhang et al.* (US 6,119,160) in view of *Lemaire et al.* (US 6,205,149 B1). This rejection is respectfully traversed.

Specifically with respect to claim 1, the Office Action states that *Zhang* discloses or suggests most of the claim elements except for "setting the QoS bits [in] accordance with the QoS level of the user." The Office Action goes on to state that "*Lemaire* teaches setting the QoS variables for data units that are associated with a flow (col. 1, lines 45-67), for guarantee [of] the quality of service and connection to the user." In the Response to Arguments section, the Office Action states that "*Lemaire* teaches inserting QoS information in the transport layer of the header (col. 1, lines 35-37). *Lemaire* also teaches the QoS variable is employed to prioritize the data unit for processing by checking the predetermined protocol types, which are stored in a cache memory, and source and destination address of the data unit (col. 1, lines 45-53)." Essentially the same ground of rejection is applied to claims 2-8 and 12-22.

It is noted that the first and third citations above are overlapping with the third being a subset of the first. With one exception below, these will be treated as one citation and will be referred to as the first citation. The first citation will be discussed further after the second.

The second citation is taken out of context and is not enabling. The second citation is from the Background of the Invention. This is not the invention disclosed by *Lemaire*. The arguments above incorrectly combine two different inventions, that is, the prior art as presented by *Lemaire* (second citation) and the invention of *Lemaire* (third citation). *Lemaire* does not

insert QoS information into the transport layer of the header. He merely notes that others have. He goes on to note that this has not been effective. (See col. 1, lines 41-42) There are no enabling details as to what is inserted into the header, who inserts it, when it is inserted, or how it is used. All of these details are glossed over by use of the phrase "it is known." In any case, *Lemaire* rejects this approach for his own which employs a cache lookup. The citation is therefore improper and fails to support the argument put forth.

Returning to the first citation, it is noted that the citation is to the Brief Summary of the Invention and is limited in enabling details. What is disclosed is that "QoS information [is] loaded into the *cache*" and that "a cache lookup [is performed] to *obtain* at least one QoS variable." (emphasis added) It is important to note that the QoS information is not in the packet as claimed. The QoS information is in a central "cache" location so that "QoS information can then be retrieved by executing a single cache lookup." Further, it is unclear as to who sets the QoS information and as to when it is set. The cache lookup itself merely "obtains" the QoS information. It does not set the QoS information. It appears that the QoS information is set at some earlier time by some undisclosed process. This is not as claimed.

Further still, *Lemaire* discloses that the QoS information is obtained from the cache based on Source or Destination Addresses. This is not as specific as basing the QoS on the "user" as variously claimed. There may be multiple users at a particular address. The various users may not all have the same QoS level. It might be improper to assign QoS based on the highest level user to all users just because they share the same address. This is not as claimed.

With respect to motivation to combine the references, as noted above, *Lemaire* rejected the prior art approach of inserting QoS information into the header as not being effective. In this sense, *Lemaire* therefore teaches away from the presently claimed invention which, as variously claimed, specifically sets QoS bits in the packets. Consequently, the combination of prior art references is not obvious.

Given the above, the cited prior art can not be said to render the claimed invention obvious and it is respectfully asserted that the claims are now in condition for allowance.


Request for Allowance

In view of the foregoing, reconsideration and an early allowance of this application are earnestly solicited.

If any matters remain which could be resolved in a telephone interview between the Examiner and the undersigned, the Examiner is invited to call the undersigned to expedite resolution of any such matters.

Respectfully submitted,
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